



Sistema Educativo Municipal
Dirección General

Date: July 9, 2015

VIA EMAIL: appeals@sl.universalservice.org

Letter of Appeal
Schools and Libraries Division - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

RE: LETTER OF APPEAL – ESCUELA DEL DEPORTE

This is an appeal by Escuela del Deporte of the Funding Commitment Decision Letter (FCDL) issued by Universal Service Administrative Company (USAC) on May 13, 2015. The FCDL denies FCC Form 471 Application Number 985994 seeking E-rate funds for Internet service for Funding Year 2014 on the basis of “bidding violation.” This letter responds to the FCDL and respectfully requests that this appeal be granted to permit us to continue to participate in the E-rate program.

Below is the name, address, telephone number, fax number, and email address of the person who can most readily discuss this Appeal with USAC:

Name: Evelyn Lafontaine, Ed.D.
Address: Municipal Education System
City of San Juan
161 Chardon Street
Hato Rey, Puerto Rico 00902
Telephone: (787) 480-4674
Fax: (787) 725-8890
Email: elafontaine@sanjuanciudadpatria.com

Below is the relevant information concerning our application:

Billed Entity Name: Escuela del Deporte
Billed Entity Number: 16052523
FCC Registration Number: 0019721521
FCC Form 470 Number: 699400001227454
FCC Form 471 Number: 985994
Funding Request Number: 2689151
Services Ordered: Internet Access

Sistema Educativo Municipal. Municipio Autónomo de San Juan
PO Box 70179, San Juan, Puerto Rico 00936-8179
Tel. (787) 480-4670 Fax (787) 725-8890

Escuela del Deporte operates under the jurisdiction of the Municipal Educational System of the City of San Juan, Puerto Rico. E-rate funds are critical to our ability to bring Internet access into the classroom and offer students with a 21st Century education that will allow them to compete in an increasingly global economy. Because USAC did not issue an FCDL until the end of the funding year in question (May 13, 2015), we started receiving Internet access service from our selected vendor after following all of the programs rules with the expectation that a positive FCDL would be issued. Now we find ourselves in an extremely difficult position because, after having received Internet service from our vendor for the entire funding year, USAC's decision not to fund the application means that we could be liable to our vendor. We qualify for a 90 percent discount, which in this case amounts to \$61,020.00.

The FCDL states the following reason for the denial:

Your FRN is denied because you indicated in response to the Administrator's Information Request that you received any assistance from Service Provider A New Vision in Educational Services & Materials (NEVESEM) d.b.a Dreyfous & Associates, SPIN 143022659, in the creation of the referenced FCC Form 470 for the FRN. A service provider that participates in the competitive bidding process as a bidder cannot be involved in the preparation or certification of the entity's FCC Form 470. In addition, you indicated that the service provider supplied you with the list of services to request on your FCC Form 470. This action constitutes improper service provider involvement and the FRN is denied.

The negative FCDL is the result of a complete misunderstanding on our part regarding USAC's questions. In this regard, we ask USAC to take into consideration the fact that Spanish is the first language of all of our personnel, including the undersigned. After reviewing the FCDL and the reason for the denial along with our initial response, we realize that we misinterpreted USAC's questions. Below we reproduce the specific USAC question at issue, our response, why we misinterpreted the question, and correct our initial response.

Question C in USAC's letter dated October 16, 2014 says:

Did a service provider's employee(s) assist your entity with the completion and/or posting Form 470 #699400001227454? Yes _____ or No _____. If yes:

- *Provide the name, title, contact information (address, telephone, fax and email) of the service provider's employee(s).*
- *Describe the assistance they provided, (i.e., did they fill out any portion of the form, provide you with information for you to add to the form, post the form to the USAC website etc.)*
- *Explain why you selected your service provider's employee(s) to assist your entity with completing or posting your Form 470.*

We indicated "yes" in response to the question above, and stated the following in describing the assistance given: *"In how to enroll and get the entity numbers for our schools" and "In how to identify the services that we need in accordance to the assessment of necessities in the schools."* We also made the following statement: *"We procure the advice of our service provider's to fill the FCC Forms due to a professional relationship through a contract of services with our schools systems and for its expertise in this technical field."*

We responded to this question incorrectly because we misunderstood USAC's question. As explained below, when we read Question "C", we focused on the words "assist" and "assistance" in general terms and did not realize that the question was whether we received assistance in the completion and/or posting of Form 470. We believe this misunderstanding is due to the fact that

the questions were in English and the primary language of those of us working on E-rate matters for the school is Spanish. We deeply regret this misunderstanding and take this opportunity to correct each of our statements.

We answered “yes” to the question whether a service provider employee assisted us with the completion of our Form 470. By focusing only on the words “assist” and “assistance” in Question C, we understood USAC was asking if we had ever received any assistance from a vendor. Our answer was “yes” for two reasons:

(1) We first learned about the E-rate program from NEVESEM, at which time they offered an explanation of what the program is, what services are eligible, the existence of extensive reference materials on USAC’s website, and the need to obtain a billed entity number in order to conduct business with USAC. This is the type of “assistance” we were referring to when we said we received assistance with respect to *“how to enroll and get the entity numbers for our schools.”* This type of “assistance,” of course, is unrelated to the filing of our Form 470.

(2) We selected NEVESEM as our service provider for Funding Year 2014. In the context of that vendor-customer relationship – they have been of assistance to us by answering technical questions and providing customer support. Those questions related to installation and maintenance issues, equipment performance, equipment life expectancy, etc. Thus, when we said we received assistance with respect to *“how to identify the services that we need in accordance to the assessment of necessities in the schools,”* we meant to say that we received technical, non-Form 470 application related assistance in the context of an ongoing vendor-customer contractual relationship. This technical assistance, while useful to us in evaluating the effectiveness of our current services in light of our technology needs, is completely unrelated to the filing of our Form 470.

We also wish to clarify the following statement in our response: *“We procure the advice of our service provider’s to fill the FCC Forms due to a professional relationship through a contract of services with our schools systems and for its expertise in this technical field.”* When we made this statement we were not referring to Form 470. Instead, we were referring to the fact that we need information from the service provider in order to complete the Item 21 Attachment in Form 471. As you know, the Item 21 Attachment must include detailed equipment information such as make and model, which the service provider is best suited to provide.

In sum, we misunderstood USAC’s question. USAC’s question was whether we received **assistance** from a service provider **with the completion and/or posting of our Form 470**. The answer to that question is unequivocally “NO.” We did not receive any assistance from NEVESEM or any other service provider in the creation and posting of Form 470. Had we understood USAC’s question correctly, we would have answered “NO.”

As we told USAC in our response, the persons who prepared our Form 470 were the following individuals:

Ms. Luz Laboy
Special Assistant
Municipal Education System
City of San Juan
Evelyn Lafontaine, Ed.D.
Acting Director
Municipal Education System
City of San Juan

Mr. Salvador Soto
Group Leader
Municipal Education System
City of San Juan

Ms. Laboy and Mr. Soto are officials of the Municipal Education System and they were appointed by the undersigned, Evelyn Lafontaine, also an official of the Municipal Education System, to perform this task because of their professional background and expertise in dealing with matters concerning the Municipality's Education System, including issues related to grants and other programs that may benefit our schools. None of these individuals have an employee-employer relationship with the service provider NEVESEM.

The Form 470 was completed and submitted from a computer at the Municipal Education System's offices, which are located at: Municipal Tower Building, 8th Floor, 161 Chardon Street, Hato Rey, Puerto Rico 00902.

We understand that a service provider that participates in the competitive bidding process as a bidder cannot be involved in the preparation or certification of an applicant's Form 470. We fully complied with this requirement because the Form 470 was prepared and completed by our own personnel without outside assistance. There was no improper service provider involvement and the FRN should not be denied.

We hope that this letter of appeal clarifies USAC's concerns in the FCDL and that it will agree that we have acted in a manner consistent with the program rules. As previously noted, we qualify for a 90% discount, and that is because schools and students located in Puerto Rico are among the poorest in the United States. This means that E-rate funding is absolutely critical if we are to provide a first-rate education to our students.

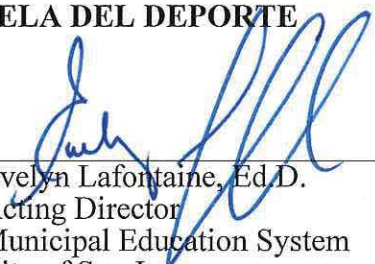
I would be pleased to discuss this appeal if you have any questions. I only request that I be given an opportunity to communicate in Spanish.

Thank you for your consideration.

Respectfully submitted,

ESCUELA DEL DEPORTE

By:



Evelyn Lafontaine, Ed.D.
Acting Director
Municipal Education System
City of San Juan

Date: July 9, 2015

Attachment: Response to USAC dated October 30, 2014



Dirección General
Sistema Educativo Municipal
Programa de Alimento y Nutrición

October 30, 2014.

Mr. Fabio Nieto
Associate Manager, Special Compliance
30 Lanidex Plaza West
Parsippany, NJ 07054

Dear Mr. Nieto:

This is in response to your inquiry dated on October 16, 2014 requesting information about the way that our organization submitted the FCC Forms. Please find the requested information of the answers given in Parts A, B and C of your document.

- A. 1. Ms. Luz Laboy
Special Assistant
Municipal Education System
City of San Juan
161 Chardón St.
Hato Rey, Puerto Rico 00902
Tel. (787)480 – 6549
Fax. (787)725-8890
e-mail:llaboy@sanjuanciudadpatria.com
2. Mr. Salvador Soto
Group Leader
Municipal Education System
City of San Juan
161 Chardón St.
Hato Rey, Puerto Rico 00902
Tel. (787)480-6548
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e-mail:ssoto@sanjuanciudadpatria.com
3. Evelyn Lafontaine, Ed.D.
Acting Director
Municipal Education System
City of San Juan
161 Chardón St.
Hato Rey, Puerto Rico 00902
Tel. (787)480-4674
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Dirección General
Sistema Educativo Municipal
Programa de Alimento y Nutrición

e-mail: elafontaine@sanjuanciudadpatria.com

Ms. Luz Laboy and Mr. Salvador Soto are officials of the Municipal Education System and were appointed by the undersigned to perform this task for their background dealing with related administrative affairs.

- B. Municipal Education System
Municipal Tower Building
8th. Floor
161 Chardón St.
Hato Rey, Puerto Rico 00902

- C. Yes.

The names and the information requested by you about the officials that assisted us to deal with the technical aspects in completing the form were:

1. Ms. Naisca Guzmán – E-rate Project Coordinator. (nguzmán@dreyfous.com)
2. Ms. Yaira Freites – Advertising Coordinator. (yfreites@dreyfous.com)

Name and address of the provider:

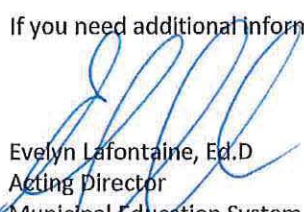
NEVESEM, Inc.
MB 641 HC-01 Box 29030
Caguas, Puerto Rico 00725
Tel. (787) 706-2700

They assisted us:

1. In how to enroll and get the entity numbers for our schools.
2. In how to identify the services that we need in accordance to the assessment of necessities in the schools.

We procure the advice of our service provider's to fill the FCC Forms due to a professional relationship through a contract of services with our schools systems and for its expertise in this technical field.

If you need additional information do not hesitate to contact us at your convenience.



Evelyn Lafontaine, Ed.D
Acting Director
Municipal Education System
City of San Juan

Special Compliance Information Request Certification

Complete and return the enclosed Certification to the Schools and Libraries Division (SLD). If the applicant's authorized representative completed the information in this document, please *attach a copy of the letter of agency or other agreement* between the applicant and consultant authorizing them to act on the school or library's behalf.

Please note that if an authorized representative signs this form, an authorized school or library official is also required to sign in the space provided below.

Note: If a consultant was used, a school official **MUST** sign below.

CERTIFICATION	
<p>I certify that I am authorized to make the representations set forth in the responses to the inquiry on behalf of Escuela Del Deporte the entity represented on and responding to the inquiry, and am the most knowledgeable person with regard to the information set forth therein. I certify that the responses and supporting documentation to the inquiry are true and correct to the best of my knowledge, information and belief. I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I acknowledge that false statements can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.</p> <p>I declare under penalty of perjury that the foregoing is true and correct. Executed on <u>30</u> day of <u>October</u>, 2014 at <u>San Juan</u> [city], <u>PR</u> [state].</p>	
Signature 	Date <u>October / 30, 2014</u>
Print Name <u>Evelyn LaFontaine</u>	Title <u>Director</u>
Employer <u>Municipality of San Juan</u>	
Telephone Number <u>787-480-4672</u>	Fax Number <u>787-725-8890</u>
Email Address <u>elafontaine@sanjuanciadadpatrig.com</u>	
Address	
Authorized School or Library Official's Signature and Title	Date
Print Name of Authorized School or Library Official Named Above	